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Important Privacy Notice

Federal Rule of Civil Procedure 5.2 prohibits litigants in a non-habeas proceeding from submitting documents that contain personal information. Unless the Court orders otherwise, personal identifying information in Court filings must be limited as follows:

- Social security numbers, taxpayer-identification numbers, and financial account numbers must include only the last four digits (e.g., xxx-xx-1234)
- Birth dates must include the year of birth only (e.g., xx/xx/2000)
- Names of persons under the age of 18 must be indicated by initials only (e.g., A.B.)

You are responsible for protecting the privacy of this information in your filings. If your documents, including attachments, contain any information that does not comply with this rule, please black out that information before sending your documents to the Court.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**HOW TO PROCEED WITH AN EMPLOYMENT DISCRIMINATION OR
REHABILITATION ACT LAWSUIT**

INSTRUCTIONS FOR A PERSON WITHOUT AN ATTORNEY

This packet contains forms to permit you to file the following:

- Form 1. Civil Complaint
- Form 2. Description of Lawsuit for Court Assignment
- Form 3. Application to Proceed In Forma Pauperis (for people unable to pay the filing fee)
- Form 4. Request for Appointment of Attorney

GENERAL INSTRUCTIONS

FORM 1 – CIVIL COMPLAINT

You should fill out and file Form 1 – Civil Complaint. When filling out the complaint, you should remember the following:

- 1) You are the plaintiff. The defendant(s) is the employer(s) being sued. If you are filing against a government agency or department, use the title of the head of that agency or department – such as Postmaster General, Secretary of the Navy, Secretary of Welfare of Pennsylvania, etc.
- 2) Your complaint must be legibly printed by hand or typewritten.
- 3) You must personally sign your complaint and declare under penalty of perjury that the facts you allege are correct.
- 4) You must attach to the complaint a copy of your Notice of Right to Sue Letter from the Equal Employment Opportunity Commission. The complaint must be filed within the time specified in your Notice of Right to Sue Letter.

FORM 2 – DESCRIPTION OF LAWSUIT FOR COURT ASSIGNMENT

When you file your complaint, you must also complete and file an original and one copy of Form 2 – Description of Lawsuit for Court Assignment.

FORM 3 – MOTION TO PROCEED IN FORMA PAUPERIS (“IFP”)

In order for the complaint to be filed, it must be accompanied by the filing fee of \$350 plus a \$52.00 Administrative Fee. If you are unable to pay the filing fee, you must file Form 3 – Motion to Proceed In Form Pauperis with the complaint. On Form 3, you must provide an explanation for why you are unable to pay the filing fee. For example: “I am unemployed and have no money except unemployment compensation.” Or: “I earn \$ ____ a week and must support a family of ____.”

The judge assigned to your case will decide whether to grant you permission to file your case in forma pauperis. If the judge grants you permission to proceed in forma pauperis, then the U.S. Marshal’s Office will serve copies of your complaint on the defendant(s). Therefore, you must give the correct name and address of each defendant.

If the judge does not grant permission to proceed in forma pauperis, then you must pay the \$350 filing fee. You then must arrange to serve the complaint on the defendant(s). The U.S. Marshal’s Office will **not** automatically serve the complaint for you if you are not granted in forma pauperis status.

FORM 4 – REQUEST FOR APPOINTMENT OF ATTORNEY

If you desire to have an attorney and believe you are entitled to have one appointed, you should file Form 4 – Request for Appointment of Attorney. Attorneys are selected from the Plaintiff’s Employment Panel, as outlined in the enclosed Program Description. Please read this enclosure carefully.

You may obtain a copy of your investigative file. Federal employees may do so from the federal agency involved by calling that agency. Other employees can obtain a copy from the Equal Employment Opportunity Commission (EEOC) by writing to:

Fredricka Warren
Christine Spriggs
EEOC, Information Specialists
801 Market Street, Suite 1300
Philadelphia, PA 19107

When you have completed your forms, may be filed using the EDS system on the website <https://www.paed.uscourts.gov/pro-se/pro-se-eds>, bring them in person or mail them to:

Clerk of Court
United States District Court
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

If you have any questions, you may call the Clerk’s Office at (215) 597-7704 and ask for the Pro Se Writ Clerk.

NOTE: You should keep a copy of the forms that you file for your records.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Caption:

Avery James Hardaway

Full name(s) of Plaintiff(s)

v.

Trader Joe's Company

Full name(s) of Defendant(s)

COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION

CIVIL ACTION
NO. EJ0-2023-08005

This action is brought for discrimination in employment pursuant to (check only those that apply):



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission, and you must have been at least 40 years old at the time you believe that you were discriminated against.



Americans with Disability Act of 1990, as codified, 42 U.S.C. §§ 12112-12117.

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.



Pennsylvania Human Relations Act, as codified, 43 Pa. Cons. Stat. §§ 951-963 (race, color, family status, religious creed, ancestry, handicap or disability, age, sex, national origin, the use of a guide or support animal because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals).

NOTE: In order to bring suit in federal district court under the Pennsylvania Human Relations Act, you must first file a complaint with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations, and then you must wait one year prior to filing a lawsuit.

I. Parties in this complaint:

A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name: Avery T. Hardaway
 Street Address: 412 W. Berks St.
 County, City: Philadelphia, Philadelphia
 State & Zip: Pennsylvania 19122
 Telephone Number: 617-968-7585

B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the caption on the first page. Attach additional sheets of paper as necessary.

Defendant Name: _____
 Street Address: _____
 County, City: _____
 State & Zip: _____
 Telephone Number: _____

C. The address at which I sought employment or was employed by the defendant(s) is:

Employer: Trader Joe's Company
 Street Address: 1324 Arch St.
 County, City: Philadelphia, Philadelphia
 State & Zip: Pennsylvania 19107
 Telephone Number: 609 - 599 - 2833

II. Statement of the Claim

A. The discriminatory conduct of which I complain in this action includes (*check only those that apply to your case*):

Failure to hire me
 Termination of my employment
 Failure to promote me

Failure to reasonably accommodate my disability
 Failure to reasonably accommodate my religion
 Failure to stop harassment
 Unequal terms and conditions of my employment
 Retaliation
 Other (specify): "Team Member at (another job not Trader Joe's)
 on TJ's website."

NOTE: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

B. It is my best recollection that the alleged discriminatory acts occurred or began on or about:
 (month) August, (day) 1, (year) 2023.

C. I believe that the defendant(s) (check one):

is still committing these acts against me.
 is not still committing these acts against me. due to application withdrawal

D. Defendant(s) discriminated against me based on my (check only those that apply and state the basis for discrimination, for example, what is your religion, if religious discrimination is alleged):

race _____ color _____

religion Sabbath gender/sex _____

national origin _____

age My date of birth is _____ (Give your date of birth only if you are asserting a claim of age discrimination)

E. The facts of my case are as follow (attach additional sheets of paper as necessary):

Applied to work with Defendant, Trader Joe's Company, in Aug 2023. After entire application submission, followed up with store manager in-person. Manager repeatedly asked about Saturday availability, which is considered a day of rest (Sabbath) to me. Respondent didn't seem receptive. Not selected, however, the TJ's website displayed "Interested in Crew?" status posted. Called months later to which they replied "Not hiring." (Continued)

NOTE: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the Pennsylvania Human Relations Commission, or the Philadelphia Commission on Human Relations.

III. Exhaustion of Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on: August 2003 (Date).

B. The Equal Employment Opportunity Commission (check one):

has not issued a Notice of Right to Sue Letter.
 issued a Notice of Right to Sue Letter, which I received on July 2003 (Date).

NOTE: Attach to this complaint a copy of the Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

C. Only plaintiffs alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

60 days or more have passed.
 fewer than 60 days have passed.

D. It is my best recollection that I filed a charge with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations regarding the defendant's alleged discriminatory conduct on: _____ (Date).

E. Since filing my charge of discrimination with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations regarding the defendant's alleged discriminatory conduct (check one):

One year or more has passed.
 Less than one year has passed.

IV. Relief

WHEREFORE, Plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs as well as (*check only those that apply*):

- Direct the defendant to hire the plaintiff.
- Direct the defendant to re-employ the plaintiff.
- Direct the defendant to promote the plaintiff.
- Direct the defendant to reasonably accommodate the plaintiff's disabilities.
- Direct the defendant to reasonably accommodate the plaintiff's religion.
- Direct the defendant to (*specify*): _____
- If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.
- Other (*specify*): _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 7 day of May, 2024.

Signature of Plaintiff
Address

Open H. Hardaway
412 W. Berks St. #0
Philadelphia PA 19107
Apt #1B
openhardaway@gmail.com
617-968-7565

Telephone number

Fax number (*if you have one*) _____